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## High Court to Decide Whether U.S. Aides Must Contest Distant Suits in Rights Cases

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WASHINGTON — The Supreme Court agreed to decide whether federal officials accused of violating the constitutional rights of citizens can be forced to defend damage suits in courts far from where they live.

The court will review a pair of lower-court rulings allowing suits to proceed against officials who prosecuted anti-Vietnam war activists in 1972 and against those accused of authorizing the opening of citizens' mail to and from the Soviet Union from 1953 to 1973.

In other actions yesterday, the high court:

— Let stand a ruling invalidating the patent on Dr. Scholl's exercise sandal, produced by Scholl Inc. Scholl had sought to stop S.S. Kresge Co., which has changed its name to K mart Corp., from selling a made-in-Taiwan copy of the Scholl sandal. A federal district judge found that Scholl held a valid patent, issued in 1962, for an improved design of a prior exercise sandal sold in Germany. However, the federal appeals court in Chicago overturned the ruling, finding that the design changes made in Scholl's sandal were "obvious to persons of ordinary skill in the sandal art."

— Refused to hear a challenge to the sulphur-dioxide emission limits the Environmental Protection Agency set for industry in rural areas of Ohio. Shell Oil Co., which has a chemical manufacturing plant in southeastern Ohio, and three Ohio utilities had sought review of a lower-court ruling upholding the EPA action. The companies complained that the EPA relied on mathematical models that exaggerated the concentration of sulphur dioxide around their plants and, as a result, imposed stricter standards than necessary. Last October, the high court refused to hear a similar protest over the sulphur dioxide limits set for urban areas of Ohio.

— Declined to disturb a ruling that a Reconstructionist civil-rights law may be invoked by a taxpayer seeking damages from local tax officials for alleged overassessment of real property. The taxpayer in the case, Fulton Market Cold Storage Co. in Chicago, didn't claim any racial, religious or ethnic bias on the part of the officials. The company merely complained that its rights to due process and the equal protection of the laws were violated because, for 1958 through 1973, its property was assessed at 100% of fair market value, while other property in Cook County, Ill., was assessed at 20% to 50%.

Present and former Cook County tax officials argued that the civil-rights suit was prohibited by a federal law that bars federal court injunctions blocking the collection of local taxes. However, a lower court said that provision didn't apply to damage suits, and the Supreme Court yesterday denied review.

### Convenient Venue

— Refused to hear a challenge to the U.S. Postal Service's monopoly on first-class mail delivery. The Justices let stand a lower-court ruling that a hand-delivered mail service operated by Patricia and J. Paul Brennan in Rochester, N.Y., violated federal law barring private competition for the Postal Service. The Brennans had contended that Congress exceeded its constitutional authority in granting a postal monopoly. Before they were forced by a federal court order to close down, the Brennans charged 10 cents an item for same-day delivery of letters picked up before noon.

In the damage cases against federal officials that the court agreed to review, the issue is, essentially, which side gets the advantage of a convenient location for trial. Such considerations can make a difference

in how practical it is to bring a suit and how costly it is to defend.

One suit was brought by members of the Vietnam Veterans Against the War/Winter Soldier Organization who, in the so-called Gainesville 8 case, were acquitted of federal charges of conspiring to disrupt the 1972 Republican national convention in Miami Beach. They contended that federal prosecutors in Florida violated their constitutional rights before the grand jury that indicted them by helping to conceal that one of their fellow witnesses was a paid informant. The informant allegedly gave the government information he obtained in meetings with the antiwar activists and their attorney.

The activists filed their damage suit against the prosecutors in Washington, D.C., where a federal district court dismissed the complaint on jurisdictional grounds, but the federal appeals court here reinstated it. The officials complained that the consequences of the ruling would be "extreme" because federal officials could be "forced to defend their personal assets in jurisdictions with which they haven't any contact and far from their homes."

In the related case, the high court will hear appeals by a former Central Intelligence Agency director, William Colby, and his former deputy, Vernon Walters, who along with more than 20 other officials were sued for authorizing the opening of citizens' mail. Mr. Colby said he learned of the mail interception shortly before he ordered it halted in 1973.

### Rhode Island Filing

The suit, which seeks more than \$1 billion in damages on behalf of "tens of thousands" of individuals whose mail allegedly was read, was filed in Rhode Island, where one of the plaintiffs lives. A federal district court in Providence and the appeals court in Boston both said the suit could proceed, although the appeals court dismissed 16 defendants who, when the complaint was filed, weren't any longer serving in the capacity in which they performed the allegedly unconstitutional acts.

In seeking review, Messrs. Colby and Walters complained that "the strain faced by a federal official defending himself in a faraway court while attempting to carry out his official duties can impair his ability to do either."

At the heart of the dispute over what courts have jurisdiction in such cases is the interpretation of a 1962 law that prescribes certain procedures for civil suits against federal officials. When the law was passed, high federal officials were generally thought to be immune from damage suits challenging their official conduct, but more recent high court rulings have limited that immunity.